

REMARKS

The Examiner is thanked for the due consideration given the application.

Claims 1-14 and 22-29 remain pending in the application. Independent claims 1, 24 and 27 have been amended to reflect the comments in the Response to Arguments, support for which can be found in, e.g., Figure 1 of the application. Claim 4 has been amended to improve the antecedent basis.

No new matter is believed to be added to the application by this amendment.

Rejections Under 35 USC §§102(e)/103(a)

Claims 1-14, 23, 24, 26, 27 and 29 remain rejected under 35 U.S.C. 102(e) as being anticipated by Nakanishi et al. (PGPUB 2004/0229093).

Claims 22, 25 and 28 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Nakanishi et al. in view of Yamada et al. (US 5,432,023)

These rejections are respectfully traversed.

The present invention pertains to a fuel cell that is exemplarily illustrated by Figure 1 of the application, which is reproduced below.

FIG. 1

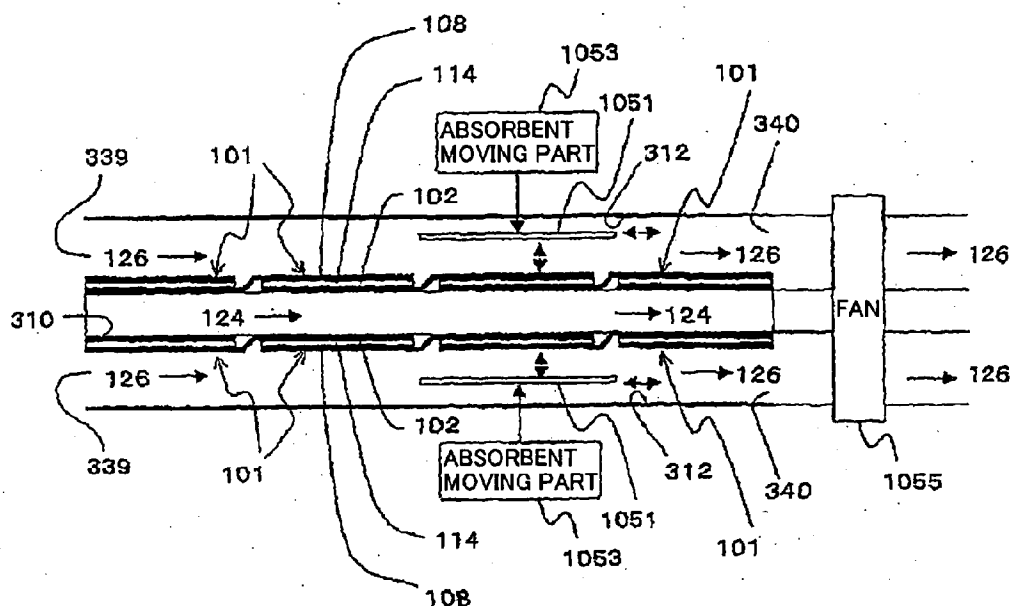


Figure 1 shows a unit cell 101 with a fuel electrode 102 and an oxidant electrode 108. An absorbent moving part 1053 supports an absorbent sheet 1051 such that the absorbent sheet 1051 approaches to and departs from a vicinity of the oxidant electrode 108.

The claims of the present invention now better reflect the technology of Figure 1 by reciting: "an absorbent sheet disposed in an oxidant path and sandwiched between the oxidant electrode and **a separator plate**; and an absorbent moving part **disposed in the oxidant path and sandwiched between the oxidant electrode and the separator plate**, the absorbent moving part movably supporting the absorbent sheet . . ."

Distinctions of the present invention over Nakanishi et al. and Yamada et al. are of record in the application which, for brevity, are not repeated here.

In the Response to Arguments the Office Action of July 23, 2010 asserted: *"The applicant is advised to include the limitation 'The absorbent sheet disposed on the oxidant electrode sandwiched between the electrode and a separator plate' or other equivalent structural limitations that establish the location of the movable absorbent material located between the electrode and plate."*

In the Response to Arguments the current Office Action asserts:

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., absorbent existing in the region between the separator plate and electrode in the fuel cell stacking direction) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Fig 1 of the instant application overcomes the prior art presented if the absorbent moving part is claimed to be in the oxidant path between the oxidant electrode and separator (312).

These comments have been considered and the independent claims have been amended to reflect this allowable subject matter.

The applied art thus neither anticipates nor renders *prima facie* unpatentable a claimed embodiment of the present invention.

These rejections are believed to be overcome, and withdrawal thereof is respectfully requested.

Conclusion

The Examiner is thanked for considering the Information Disclosure Statement filed May 3, 2010 and for making the references therein of record in the application.

Prior art of record but not utilized is believed to be non-pertinent to the instant claims.

As no issues remain, the issuance of a Notice of Allowability is respectfully solicited.

The Commissioner is hereby authorized in this, concurrent, and future submissions, to charge any deficiency or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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